

deals with an issue, is the fact that there are 50 State AGs around the country who, as a result of the Dodd bill, are going to be turned loose on our community banks.

What I mean by that is, the consumer protection agency, as it has been created in the Dodd bill, has no check and balance. It has a very large budget. It is renting space, if you will, at the Federal Reserve. So it has no prudential regulator that is overseeing the rules that it creates.

This consumer protection agency has the ability to write rules with no veto authority against the safety and soundness of financial institutions. Then it has the ability to enforce those rules. A lot of my friends on the other side of the aisle, and certainly people on my side of the aisle, have sought to protect community banks from this consumer protection agency. Let's face it. A big part of that was to build political support for this bill so that community bankers all across our country would rally because they were not necessarily going to be directly under the enforcement of consumer protection.

But the Dodd bill does something else that is very detrimental. That is why they still are very concerned. It allows the 50 State AGs around this country to take actions against credit unions, to take actions against community banks, based on the rules that this consumer protection agency creates.

So here we are, we are going to create an organization that has no real check and balance against the rules that it writes. Then when it writes a rule, an AG in Tennessee or an AG in Alabama or an AG in Delaware or Connecticut can take action against a community bank over these rules.

So it does not matter anymore that this consumer protection agency does not enforce directly against that. Instead, what we have is these AGs all around the country who now will be suing credit unions, suing small banks over rules this Federal agency is creating that has no check and balance against it.

I find that very cumbersome. But to add to that, the Dodd bill adds language called "abusive." In other words, there is a new standard that is going to be created and be the law of the land, a new standard called "abusive" that is very vague. By the way, this "abusive" language comes in after the fact.

So what it means is, if party A and party B enter into a deal and an AG decides that under this abusive standard one party has been aggrieved—this is after the fact—then whatever contract they have entered into, if it was a loan, for instance, which is likely to be the case, that loan is totally done away with. You cannot enforce against it.

I think this is one of the worst attributes of this bill. The fact that community bankers all across this country in some ways may have thought originally that they were not going to get caught up in this consumer protection agency—oh, no, that is not the case.

The fact is, again, 50 AGs around this country—not based on statutes, based on rules—in other words, you know they have the enumerated statutes in this bill under which they can make rules. Then there has been some added in title X—the definition of "abusive," which, again, is very vague, added into this.

But this agency is an agency I believe is going to be very proactive, and I think that is why most people on the other side of the aisle are so excited about this. That is why the White House is very excited about this. They know this is another one of those cases—let no crisis go to waste. We have the opportunity now, because of this crisis, to create this czar, this czar that has no board, and under statutes that are already passed, and some that we are going to pass if this bill passes. This agency can then make rules.

I want to say this one more time. They are going to make rules, and then every AG in the country is going to have the ability, after contracts have been entered into, to say: No, that is abusive, and to basically void those.

This is going to create so much uncertainty out there. Again, to have an organization like this, unfettered, dealing with these types of issues, and then for the first time, for the first time in years, allowing those State AGs to take actions against some of these smaller institutions, I know people in Tennessee—it is not the people on Wall Street. I think we know CitiGroup and Goldman have all come out and said they support this bill.

Why not? The big guys always do better when we create regulations. It is the small guys back in my State who have great concerns. I just want to say, this is one of the most dangerous and problematic attributes of this bill.

So in the name of ensuring that our community banks and credit unions and other small institutions across our country are not abused, are not abused as it relates to this bill, what I hope will happen is that people will not only support the Carper amendment, which does half the job—when you have a bill like this, certainly I support half a loaf of improvement. I hope they will support the Carper amendment, but I hope my friends on the other side of the aisle will join what I believe will be almost everyone on this side of the aisle to ensure that those very people we talk about, talk about back home, do not have advantage taken of them by this consumer protection agency that is unfettered, that is going to write rules, that is going to give the ability to State AGs around this country to take actions against State banks, local banks, but also national banks, to take actions against them based on Federal rules—not just Federal laws, Federal rules.

I will stop. I know my time is about up. This is a very commonsense amendment. I say to my friends on the other side of the aisle: I have offered no mesaging amendments, none. I have tried

to offer a few commonsense amendments to deal with frailties in this bill that I believe are real. I know there is a lot of stress on the other side of the aisle with everybody trying to hold together. I know the White House and Treasury are over here meeting in backrooms trying to keep people from supporting things that make common sense. I hope others will join with me to ensure that we don't allow this unfettered organization, this czar over consumer protection, to create rules that then put community banks and others at great risk and have the ability to break contracts after the fact based on very vague language that 50 AGs may interpret in very different ways on a case-by-case basis, in whatever mood they are in on that day. I think that is problematic.

I yield the floor.

AMENDMENT NO. 4071 TO AMENDMENT NO. 3739

(Purpose: To address the applicability and preservation of certain State authorities, and for other purposes)

Mr. CARPER. Mr. President, I call up amendment No. 4071.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. CARPER], for himself, Mr. BAYH, Mr. JOHNSON, and Mr. WARNER, proposes an amendment numbered 4071 to amendment No. 3739.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. CARPER. Mr. President, I would like to state to the manager of the bill, if I could ask a question of Senator DODD, one of Senator REID's right-hand lieutenants asked me to ask for an additional 5 minutes on both the Corker and Carper amendments. I presume that has been cleared with him.

Mr. DODD. I have no objection.

Mr. CARPER. I ask unanimous consent that both on the Corker amendment and the amendment I have offered, we have an additional 5 minutes for a total of 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. Mr. President, let me start off by thanking Senator CORKER for all the time and energy he and Courtney and others on his staff have put into this issue, both in committee and as we come to the floor.

Last week, Senator CORKER and I and about 11 other Republicans and a number of Democrats joined to offer the amendment he is offering at this time. When it became clear to me that we were not going to be able to muster the 60 votes to prevail on what was our amendment, we began working with Senator DODD and his staff—I hope we kept our colleagues in the loop, as we went through the negotiations—to come up with legislation that enables us to get a half a loaf. I think we probably got more than half a loaf. Time will tell. History will judge.

I wish to back up a little bit and say what I think the authors of the legislation had in mind in the bill as it came to the floor. The idea is to create a new